

Senate Bill No. 2140

CHAPTER 1010

An act to amend Sections 3501.5, 20028, 20474, 20570, 20815, 22754, and 70218 of, and to add Sections 20069.1, 20460.1, 20469.1, 20471.1, and 68656 to, to add Chapter 7 (commencing with Section 71600) to Title 8 of, to repeal Section 3501.6 of, and to repeal Chapter 2.1 (commencing with Section 68650) of Title 8 of, the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 29, 2000. Filed
with Secretary of State September 30, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2140, Burton. Trial court employees.

Existing law governs the trial court employee personnel system.

This bill would establish a new trial court employee personnel system, as specified, governing, among other things, the authority to hire trial court personnel, and to regulate their classification and compensation, labor relations, personnel selections and advancement, employment protection, retirement, and personnel files. The bill would also require the California Law Revision Commission to recommend to the Legislature on or before January 1, 2002, amendments to the codes to remove related, obsolete provisions. The bill would impose a state-mandated local program by requiring new duties of trial courts. It also would make an appropriation by providing for additional eligibility for membership in the Public Employees' Retirement System, thus increasing employer and employee contributions to the Public Employees' Retirement Fund, a continuously appropriated special fund.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 3501.5 of the Government Code is amended to read:

3501.5. As used in this chapter, “public agency” does not mean a superior court or municipal court.

SEC. 2. Section 3501.6 of the Government Code is repealed.

SEC. 3. Section 20028 of the Government Code is amended to read:

20028. “Employee” means:

(a) Any person in the employ of the state (etc, as in stats), a county superintendent of schools, or the university whose compensation, or at least that portion of his or her compensation that is provided by the state, a county superintendent of schools, or the university, is paid out of funds directly controlled by the state, a county superintendent of schools, or the university, excluding all other political subdivisions, municipal, public and quasi-public corporations. “Funds directly controlled by the state” includes funds deposited in and disbursed from the State Treasury in payment of compensation, regardless of their source.

(b) Any person in the employ of any contracting agency.

(c) City employees who prior to the effective date of the contract with the hospital are assigned to a hospital that became a contracting agency because of subdivision (p) of Section 20057 shall be deemed hospital employees from and after the effective date of the contract with the hospital for retirement purposes. City employees who after the effective date of the contract with the hospital become employed by the hospital, shall be considered as new employees of the hospital for retirement purposes.

(d) Any person in the employ of a school employer.

(e) Public health department or district employees who were employees prior to the date of assumption of the contract by the governing body of a county of the 15th class shall be deemed public health department or district employees from and after the effective date of assumption of the contract for retirement purposes. Employees who after the effective date of assumption of the contract become employed by the public health department or district shall be considered as new employees for retirement purposes.

SEC. 4. Section 20069.1 is added to the Government Code, to read:

20069.1. “Trial court” shall have the same meaning as the term is defined in the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8).

SEC. 5. Section 20460.1 is added to the Government Code, to read:

20460.1. (a) For all counties that contract with the board for the provision of retirement benefits for their eligible employees as of the

implementation date of the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8), a trial court and a county in which the trial court is located shall jointly participate in this system by joint contract. All other counties and trial courts may elect such joint participation in accordance with the procedures set forth in this chapter. Except as provided in subdivision (b) and except as otherwise provided in this part, the trial court and the county jointly participating in this system shall each have all of the rights and all of the obligations of a contracting agency under the contract and under this part.

(b) A county shall not be responsible for the employer or employee contributions required to be paid on behalf of trial court employees. A trial court shall not be responsible for the employer or employee contributions required to be paid on behalf of county employees.

(c) As used in this chapter, “joint contract” means a contract with the board as set forth in subdivision (a).

SEC. 6. Section 20469.1 is added to the Government Code, to read:

20469.1. (a) Notwithstanding 20469, if after receiving the approximate contribution quotation the governing body of a county and the presiding officer of a trial court located in the same county intend to approve a proposed joint contract, both shall adopt a resolution giving notice of that intention. Each resolution shall contain a summary of the major provisions of the proposed retirement plan. The contract shall not be approved unless an election has been held to permit the employees proposed to be included in this system to express by secret ballot their approval or disapproval of the retirement proposal. Prior to the election the county governing body and the trial court presiding officer shall be furnished with a schedule of rates of contribution of members, which shall be made available by the governing body and the presiding officer to each employee proposed to be included in this system. The ballot at the election shall include the summary of the retirement plan as set forth in the resolution. The election shall be conducted in the manner prescribed by the governing body and the presiding officer which shall be such as to permit the firefighters, the police officers, the county peace officers, and the other employees proposed to be included in this system to express separately their approval or disapproval.

(b) For all counties that participate in this system by contract with the board as of the implementation date of the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8), the trial court located in the county shall be deemed to elect to participate in this system jointly with the county pursuant to the terms and conditions of the county’s contract with the board. The county’s contract shall be



amended to add the trial court as a contracting party. The amended contract shall be deemed adopted by the county. This amendment shall establish a joint contract.

SEC. 7. Section 20471.1 is added to the Government Code, to read:

20471.1. Notwithstanding Section 20471, and except as provided in subdivision (b) of Section 20469.1, approval of a proposed joint contract by a trial court and county shall be by ordinances or resolutions adopted by both the affirmative vote of a majority of the members of the governing body of a county and the presiding officer of the trial court, not less than 20 days after the latest adoption of the notices of intention. The resolution of the presiding officer of the trial court and the resolution or ordinance of the governing body of the county which approve the joint contract must be adopted within 30 days of each other.

SEC. 8. Section 20474 of the Government Code is amended to read:

20474. Whenever by any provision of law an election is given to contracting agencies to subject themselves and their employees to provisions of this part otherwise not applicable to contracting agencies and their employees, and no other means of making the election is expressly provided, any contracting agency may make the election by amendment to its contract with the board approved in the manner provided for the approval of the contracts including an election among the employees affected unless the amendment only adds benefits without affecting members' contributions, in which case the election among the employees is not required. An amendment to a joint contract that has been approved by the governing body of the county shall be deemed approved by the presiding officer of the trial court located within the county. The amendment shall specify the date upon which the agency and its employees shall become subject to the provisions. That date shall not be earlier than the first day following the approval of the contract pursuant to Section 20471, except that if the rate of the employer's contributions changes, the effective date shall not be earlier than the first day of the pay period following the approval. Any election made by amendment to the contract shall be irrevocable until the contract is terminated. However, benefits provided by the amendment may be increased or improved from time to time by further amendment to the contract. From and after the date specified in the amendment to the contract the provisions, as they are in effect at the time of election and as they may be amended in the future, shall apply to the contracting agency and to its employees, and the rights, privileges, duties, liabilities, and responsibilities of the contracting agency and of each of its employees included in this system shall be governed thereby.



SEC. 9. Section 20570 of the Government Code is amended to read:

20570. (a) If the contract has been in effect for at least five years and was approved by an ordinance or resolution adopted by the governing body of the contracting agency, the governing body may terminate it by the adoption of a resolution giving notice of intention to terminate, and by the adoption, not less than one year thereafter by the affirmative vote of two-thirds of the members of the governing body, of an ordinance or resolution terminating the contract. Termination shall be effective with board approval on the date designated in the ordinance or resolution terminating the contract.

(b) If the contract is a joint contract and the joint contract has been in effect for at least five years, the contract may be terminated by the adoption of trial court and county resolutions giving notice of intention to terminate, and by the adoption, not less than one year thereafter by the affirmative vote of two-thirds of the members of the governing body of the county, and by the presiding officer of the trial court, of an ordinance or resolution terminating the contract. Termination shall be effective with board approval on the date designated in the ordinance terminating the contract.

SEC. 10. Section 20815 of the Government Code is amended to read:

20815. (a) Notwithstanding any other provision of this part, including, but not limited to, Sections 20225 and 20790, the board shall not combine the assets and liabilities of public agency employers into a single account for the purpose of setting a uniform rate of employer contributions for all public agency employers. The rate at which a public employer's contribution to this system shall be fixed shall be based upon its own experience. Provisions of law that provide authority for this system to combine the assets and liabilities of public employers into a single account for purposes of establishing a uniform rate are superseded to the extent that they provide that authority. For purposes of this section only, references to public employers shall not be construed to include school employers.

(b) Notwithstanding subdivision (a), the assets and liabilities of a county and a trial court jointly contracting with the board under Section 20460.1 shall be combined for purposes of setting the employer contribution rate for both the county and the trial court.

SEC. 11. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms:

(a) "Board" means the Board of Administration of the Public Employees' Retirement System.

(b) "Employee" means:

(1) Any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state

including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency that has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, or who is an employee or annuitant of a special district or county subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3) that has elected to become subject to this part, or who is an employee or annuitant of a special district, as defined in subdivision (i), that has elected to become subject to this part, except persons employed on an intermittent, irregular or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.

(2) Any officer or employee who participates in the retirement system of a contracting agency as defined in paragraph (2) of subdivision (g) that has elected to become subject to this part, except persons employed less than half time or who are otherwise determined to be ineligible.

(3) Any annuitant of the Public Employees' Retirement System employed by a contracting agency as defined in subdivision (g) that has elected to become subject to this part who is a person retired under Section 21228.

(c) "Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, that is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(d) "Health benefits plan" means any program or entity that provides, arranges, pays for, or reimburses the cost of health benefits.

(e) "Annuitant" means:

(1) Any person who has retired within 120 days of separation from employment and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.



(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in paragraph (1), or as the survivor of a deceased employee under Section 21541, 21546, or 21547 or similar provisions of any other state retirement system.

(3) Any employee who has retired under the retirement system provided by a contracting agency as defined in paragraph (2) of subdivision (g) and who receives a retirement allowance from that retirement system, or a surviving family member who receives the retirement allowance in place of the deceased.

(4) Any person who was a state member for 30 years or more and who, at the time of retirement, was a local member employed by a contracting agency.

(f) “Family member” means an employee’s or annuitant’s spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(g) “Contracting agency” means:

(1) Any contracting agency as defined in Section 20022, any county or special district subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), and any special district, school district, county board of education, personnel commission of a school district or a county superintendent of schools.

(2) Any public body or agency of, or within California not covered by the Public Employees’ Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), that provides a retirement system for its employees funded wholly or in part by public funds and a trial court as defined in the Trial Court Employment Protections and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8).

(h) “Employer” means the state, any contracting agency employing an employee, and any agency that has elected to become subject to this part pursuant to Section 22856.

(i) “Special district” means a nonprofit, self-governed public agency, within the State of California and comprised solely of public employees, performing a governmental rather than proprietary function.

SEC. 12. Section 68656 is added to the Government Code, to read:

68656. This chapter shall remain in effect until January 1, 2002, and is repealed as of that date, unless another statute, which is enacted and becomes operative on or before January 1, 2002, extends or deletes that date.

SEC. 13. Section 70218 of the Government Code is amended to read:

70218. When the municipal and superior court in a county are unified:

(a) Article 3 (commencing with Section 71630) of Chapter 7 of Title 8 shall be fully applicable to the county and the unified superior court.

(b) An employee organization that has been previously recognized as a representative of a group of court employees or the exclusive representative of an established appropriate bargaining unit of court employees, either by the county or municipal court or superior court shall continue to be recognized as a representative or the exclusive representative of the same employees of the county or unified superior court.

(c) An existing memorandum of understanding or agreement between the county, a municipal court, or a superior court shall remain in effect and be fully binding on the county, the unified superior court, and the employee organization involved for the term of the agreement. However, in the event of an election held under paragraph (2) of subdivision (e), (1) a memorandum of understanding or agreement with an employee organization that is no longer recognized as the exclusive representative shall continue in effect and be administered by the employee organization that receives a majority of votes in the election and is certified or recognized pursuant to paragraph (2) of subdivision (e), provided that the memorandum of understanding or agreement shall be subject to reopening on request of either the unified superior court or the newly certified or recognized employee organization, provided that no changes in that memorandum of understanding or agreement may be made during its term without mutual agreement of the unified superior court and the newly certified or recognized employee organization, and (2) a memorandum of understanding or agreement with an employee organization that receives a majority of votes in the election shall remain in full force and effect until its expiration or until replaced by a subsequent memorandum of understanding or agreement.

(d) Nothing in this article shall disturb or affect any court- or county-established appropriate bargaining unit or memorandum of understanding or agreement between an employee organization and a county or court, unless subdivision (e) applies.

(e) (1) Where there is more than one employee organization that has been previously recognized as the exclusive representative of employees of the municipal court and the superior court, the county and the unified superior court shall continue to recognize each exclusive representative of each bargaining unit and shall continue to be bound by any existing memorandum of understanding or agreement covering those employees for a period not to exceed 225 days from date of unification, pending the exhaustion of the election procedure set forth in paragraph (2). Any conflicts in the existing



agreements as to wages and other terms and conditions of employment shall be subject to negotiation between the county or unified superior court and each of the exclusive representatives.

(2) If after unification it is determined that two or more exclusive representatives seek to represent employees in a single appropriate bargaining unit, the unified superior court shall conduct a representation election in accordance with Article 3 (commencing with Section 71630) of Chapter 7 of Title 8. With respect to this process (A) the unified court shall meet and confer in good faith with all incumbent exclusive representatives regarding the establishment of appropriate bargaining units, (B) the county or unified superior court shall maintain a neutral position as to the competing employee organizations in the election, (C) the employee organization shall be certified or recognized as the exclusive bargaining representative upon receiving a majority of the votes cast in the representation election, (D) the election of an exclusive representative shall be conducted no later than 180 days from the effective date of unification or the effective date of this subparagraph, whichever comes later, and (E) the certification or recognition of an exclusive representative shall be complete no later than 45 days from the date of the election.

(f) This section applies to all unified superior courts, and the counties and employee organizations involved, beginning on the date of unification.

SEC. 14. Chapter 7 (commencing with Section 71600) is added to Title 8 of the Government Code, to read:

CHAPTER 7. TRIAL COURT EMPLOYMENT PROTECTION AND GOVERNANCE ACT

Article 1. General Provisions

71600. This chapter may be cited as the Trial Court Employment Protection and Governance Act.

71601. For purposes of this chapter, the following definitions shall apply:

(a) “Appointment” means the offer to and acceptance by a person of a position in the trial court in accordance with this chapter and the trial court’s personnel policies, procedures, and plans.

(b) “Employee organization” means any organization that includes trial court employees and has as one of its primary purposes representing those employees in their relations with the trial court.

(c) “Hiring” means appointment as defined in subdivision (a).

(d) “Mediation” means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours, and other terms and conditions of employment between representatives of the trial court



and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(e) “Meet and confer in good faith” means that a trial court or representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses where specific procedures for resolution are contained in this chapter, local rule, regulation, or ordinance, or when the procedures are utilized by mutual consent.

(f) “Personnel rules,” “personnel policies, procedures, and plans,” and “rules and regulations” mean policies, procedures, plans, rules, or regulations adopted by a trial court or its designee pertaining to conditions of employment of trial court employees, subject to meet and confer in good faith.

(g) “Promotion” means promotion within the trial court as defined in the trial court’s personnel policies, procedures, and plans, subject to meet and confer in good faith.

(h) “Recognized employee organization” means an employee organization that has been formally acknowledged to represent trial court employees by the county under Sections 3500 to 3510, inclusive, prior to the implementation date of this chapter, or by the trial court under Rules 2201 to 2210, inclusive, of the California Rules of Court, as those rules read on April 23, 1997, Sections 70210 to 70219, inclusive, or Article 3 (commencing with Section 71630) of this chapter.

(i) “Subordinate judicial officer” means an officer appointed to perform subordinate judicial duties as authorized by Section 22 of Article VI of the California Constitution, including, but not limited to, a court commissioner, probate commissioner, referee, traffic referee, juvenile referee, and pro tem judge.

(j) “Transfer” means transfer within the trial court as defined in the trial court’s personnel policies, procedures, and plans, subject to meet and confer in good faith.

(k) “Trial court” means a superior court or a municipal court.

(l) “Trial court employee” means a person who is both of the following:

(1) Paid from the trial court’s budget, regardless of the funding source. For the purpose of this paragraph, “trial court’s budget” means funds from which the presiding judge of a trial court, or his or her designee, has authority to control, authorize, and direct expenditures, including, but not limited to, local revenues, all grant funds, and trial court operations funds.

(2) Subject to the trial court’s right to control the manner and means of his or her work because of the trial court’s authority to hire,

supervise, discipline, and terminate employment. For purposes of this paragraph only, the “trial court” includes the judges of a trial court or their appointees who are vested with or delegated the authority to hire, supervise, discipline, and terminate.

(m) A person is a “trial court employee” if and only if both paragraphs (1) and (2) of subdivision (l) are true irrespective of job classification or whether the functions performed by that person are identified in Rule 810 of the California Rules of Court. The phrase “trial court employee” includes those subordinate judicial officers who satisfy paragraphs (1) and (2) of subdivision (l). The phrase “trial court employee” does not include temporary employees hired through agencies, jurors, individuals hired by the trial court pursuant to an independent contractor agreement, individuals for whom the county or trial court reports income to the Internal Revenue Service on a Form 1099 and does not withhold employment taxes, sheriffs, and judges whether elected or appointed.

71612. Except as otherwise expressly provided in this chapter, the enactment of this act shall not be a cause for the modification or elimination of any existing wages, hours, or terms and conditions of employment of trial court employees. However, except as to those procedures, rights, or practices described in this chapter as minimum standards, the enactment of this act shall not prevent the modification or elimination of existing wages, hours or terms and conditions of employment through the meet and confer in good faith process or, in those situations in which the employees are either exempted from representation, or are not represented by a recognized employee organization, through appropriate procedures.

71614. Nothing in this chapter shall be construed as affecting the interpretation or operation of Sections 70210 to 70219, inclusive, for purposes of unification of the trial courts.

71615. (a) Except as provided in subdivision (b), the effective date of this act shall be its implementation date.

(b) Representatives of a trial court and representatives of recognized employee organizations may mutually agree to an implementation date of this act later than the effective date of this act. However, if any provisions of this chapter are governed by an existing memorandum of understanding or agreement covering trial court employees, as to such provisions the implementation date shall be either the date a successor memorandum of understanding or agreement is effective or, if no agreement for a successor memorandum of understanding or agreement is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding or agreement, unless representatives of the trial court and representatives of recognized employee organizations mutually agree otherwise.

(c) As of the implementation date of this chapter, all of the following shall apply:



(1) All persons who meet the definition of trial court employee shall become trial court employees at their existing or equivalent classifications.

(2) Employment seniority of a trial court employee, as calculated and used under the system in effect prior to the implementation of this act, shall be calculated and used in the same manner by the trial court.

(3) A trial court employee shall have the same status he or she had as a probationary, permanent, or regular employee under the system in effect prior to implementation of this act. A probationary employee shall not be required to serve a new probationary period and shall continue the existing probationary period under the terms of hire.

(4) Subject to the agreement of the county, and unless prohibited or limited by charter provisions, the policies regarding transfer between the trial court and the county that are in place as of the implementation date of this act shall be continued while an existing memorandum of understanding or agreement remains in effect or for two years, whichever is longer, and any further rights of trial court employees to transfer between the trial court and the county shall be subject to the obligation to meet and confer in good faith at the local level between representatives of the trial court and representatives of recognized employee organizations and local negotiation between the trial court and the county. Subject to the agreement of the county, and unless prohibited or limited by charter provisions, the policies regarding the portability of seniority, accrued leave credits, and leave accrual rates that are in effect upon the implementation date of this act shall be continued if trial court or county employees transfer between the trial court and the county or the county and the trial court while an existing memorandum of understanding or agreement remains in effect, or for a period of two years, whichever is longer. Any further right of trial court employees to portability is subject to the obligation to meet and confer in good faith between representatives of the trial court and representatives of recognized employee organizations and local negotiation between the trial court and the county.

(5) Each trial court shall be deemed the successor employer of all trial court employees in the county in which the trial court is located.

(d) In establishing local personnel structures for trial court employees in accordance with this chapter, the trial court shall comply with contractual obligations, and consideration shall be given to minimizing disruption of the trial court workforce and protecting the rights accrued by trial court employees under their current systems. However, prior contractual obligations and rights may be reconsidered subject to the obligation to meet and confer in good faith, provided both parties give consideration to past contractual obligations and rights.



(e) Unrepresented trial court employees are governed by a trial court's personnel policies, procedures, and plans. The implementation of this act shall not be a cause for changing a trial court's personnel policies, procedures, and plans applicable to unrepresented trial court employees except where required to bring such policies, procedures, and plans into conformity with this chapter. Except as otherwise expressly provided in this act, a trial court retains all existing rights with respect to revising its personnel policies, procedures, and plans as applied to unrepresented trial court employees.

(f) Upon implementation of this act in a trial court, Sections 68650 to 68655, inclusive, and Rules 2201 to 2210, inclusive, of the California Rules of Court, shall be inoperative as to that trial court.

71616. If any provision of this chapter, or the application thereof, to any person or circumstances, is held invalid, the invalidity shall not affect other provisions or application of the chapter which can be given effect without the invalid provisions or application and, to this end the provisions of this chapter are severable.

71617. To the extent this chapter applies to a municipal court, any action by the municipal court specifying the number, qualification, or compensation of officers or employees of the municipal court which differs from that prescribed by the Legislature pursuant to Section 5 of Article VI of the California Constitution shall remain in effect for a period of no more than two years unless prescribed by the Legislature within that period.

71618. The Legislature hereby finds and declares that the status, rights, and protections provided to court employees under this chapter constitute a matter of statewide concern. Therefore, this chapter is applicable to all counties, notwithstanding charter provisions to the contrary. In order to ensure that effective court services are provided to all people of this state and to ensure stable court employer-employee relations, it is necessary that this chapter be applicable to all trial courts and court employees, as defined in this chapter, wherever situated within the State of California.

Article 2. Authority to Hire, Classification, and Compensation

71620. (a) Each trial court may establish such job classifications and may appoint such trial court officers, assistants, and employees as are deemed necessary for the performance of the duties and the exercise of the powers conferred by law upon the trial court and its members.

(b) Each trial court may appoint an executive or administrative officer who shall hold office at the pleasure of the trial court and shall exercise such administrative powers and perform such other duties as may be required by the trial court. The executive or administrative officer has the authority of a clerk of the trial court. The trial court

shall fix the qualifications of the executive or administrative officer and may delegate to him or her any administrative powers and duties required to be exercised by the trial court. Notwithstanding any other provision of law, the trial court may, by local rule, specify which of the powers, duties, and responsibilities required or permitted to be exercised or performed by the county clerk in connection with judicial actions, proceedings, and records shall be exercised or performed by the executive or administrative officer. The county clerk shall be relieved of any obligation imposed on him or her by law with respect to these specified powers, duties, and responsibilities, to the extent the local rule imposes on the executive or administrative officer the same powers, duties, and responsibilities.

71622. (a) Each trial court may establish and may appoint such subordinate judicial officers as are deemed necessary for the performance of subordinate judicial duties as are authorized by law to be performed by subordinate judicial officers. However, the number and type of subordinate judicial officers in a trial court shall be subject to approval by the Judicial Council. Subordinate judicial officers shall serve at the pleasure of the trial court.

(b) The appointment of a subordinate judicial officer shall be made by order entered in the minutes of the court.

(c) The Judicial Council shall promulgate rules establishing the minimum qualifications and training requirements for subordinate judicial officers.

(d) The presiding judge of a superior court may cross-assign one type of subordinate judicial officer to exercise all the powers and perform all the duties authorized by law to be performed by another type of subordinate judicial officer, but only if the person cross-assigned satisfies the minimum qualifications and training requirements for the new assignment established by the Judicial Council pursuant to subdivision (c).

(e) The superior courts of two or more counties may appoint the same person as court commissioner.

(f) As of the implementation date of this chapter, all persons who were authorized to serve as subordinate judicial officers pursuant to other provisions of law shall be authorized by this section to serve as subordinate judicial officers at their existing salary rate, which may be a percentage of the salary of a judicial officer.

71623. (a) Each trial court may establish a salary range for each of its employee classifications. Considerations shall include, but are not limited to, local market conditions and other local compensation-related issues such as difficulty of recruitment or retention.

(b) All persons who are trial court employees as defined in Section 71601, as of the implementation date of this chapter shall become trial court employees at their existing salary rate. For employees who are represented by a recognized employee organization, salary ranges

may be subject to modification pursuant to the terms of a memorandum of understanding or agreement, or upon expiration of an existing memorandum of understanding or agreement subject to meet and confer in good faith. For employees who are not represented by a recognized employee organization, salary ranges may be revised by the trial court. However, as provided in Section 71612, the implementation of this chapter shall not be a cause for the modification of salary ranges by a trial court.

71623.5. (a) As of July 1, 2001, trial courts shall provide workers' compensation coverage for trial court employees under a workers' compensation program established by the Administrative Office of the Courts or a program selected or approved by the Administrative Office of the Courts. The Judicial Council shall adopt rules of court requiring the Administrative Office of the Courts to establish a workers' compensation program for the trial courts and to provide guidance to the trial courts to ensure that the courts' workers' compensation coverage, including workers' compensation employer liability coverage, meets all legal requirements and is cost-efficient.

(b) If, as of the implementation date of this chapter, the county provides workers' compensation coverage for trial court employees, the county shall continue to provide such coverage, under the same terms and conditions as coverage was provided immediately preceding implementation of this chapter. This coverage shall continue for a transition period of up to 24 months after the implementation date of this chapter, unless the court gives the county 60 days notice that the court no longer needs the county to provide such coverage. Subject to approval by the Administrative Office of the Courts, the parties may mutually agree to county-provided coverage beyond the 24-month transition period.

(c) County provision of workers' compensation coverage for trial court employees shall not be construed to create a meet and confer obligation between the county and any recognized employee organization.

71624. (a) A county that contracts with the Board of Administration of the Public Employees' Retirement System as of the implementation date of this chapter and the trial court located within that county shall establish a joint contract with the county under Section 20460.1 and subdivision (b) of Section 20469.1 in accordance with the pertinent provisions of the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2) and any other applicable rules of the retirement system. Eligibility to participate in the Public Employees' Retirement System shall be determined in accordance with the pertinent provisions of the Public Employees' Retirement Law and any other applicable rules of the retirement system. For all other counties and their corresponding county defined-benefit retirement system, a trial court employee shall be eligible to participate as a member in the existing county

defined-benefit retirement system in the county in which the court is located.

(b) If a trial court employee participates as a member in a county defined-benefit retirement system, his or her participation shall be subject to the applicable statutes, rules, regulations, policies, and plan and contract terms of the retirement system as is any other member of the system. In accordance with these provisions, the trial court employee who is a member of a county defined-benefit retirement system shall have the right to receive the same defined-benefit retirement plan benefits as county employees without the opportunity to meet and confer with the county as to those benefits. For all county defined-benefit systems other than the Public Employees' Retirement System, the trial court shall pay to the county retirement system at the same rate of contribution for trial court employees as is required of the county for county employees under the county retirement system for the same benefit level. Provided that a county and a trial court are parties to a joint contract with CalPERS for the provision of retirement benefits under Sections 20460.1 and 20469.1, the county defined-benefit retirement system contribution rates for the trial court shall be the same as the contribution rates for the county for the same benefit levels.

(c) Unless otherwise required by law, as provided in Section 71612, the implementation of this chapter shall not be a cause for the modification of the trial court employee's contractual coverage under, or exclusion from, social security.

(d) To facilitate trial court employee participation in county defined-benefit retirement plans, the trial court and county may mutually agree that the county shall administer the payroll for trial court employees.

(e) Nothing in this section precludes a trial court from offering a different defined-benefit retirement plan for trial court employees that is separate from the county defined-benefit retirement plan, subject to the terms of a memorandum of understanding or agreement for represented employees, or the terms of trial court policies, procedures, or plans, for unrepresented employees. The mechanism for implementation of these plans shall be created by statute.

(f) For purposes of this section, "county defined-benefit retirement system" means a defined-benefit retirement system administered by the county or applicable governing body, including systems established pursuant to the Public Employees Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2), the County Employees' Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 3 of Title 3), or an independent retirement system or plan.

(g) On the date this chapter is implemented, a trial court employee who is a member of any county defined-benefit retirement

system shall continue to be eligible to receive the same level of benefits that the member was eligible to receive prior to implementation of this chapter.

71625. (a) Trial court policies related to accrued leave benefits, including the type and accrual rate of accrued leave benefits, in effect on the implementation date of this chapter shall remain in effect unless modified pursuant to subdivision (c).

(b) The implementation of this chapter shall not cause a termination of employment and rehire for purposes of accrued leave benefits and shall not result in either the trial court or the county cashing out trial court employees' accrued leave balances. A trial court employee shall retain his or her accrued leave balances upon implementation of this chapter. A trial court employee shall not cash out his or her accrued leave balances solely as a result of implementation of this chapter.

(c) For employees who are represented by a recognized employee organization, the type and accrual rate of, and policies relating to, accrued leave benefits are subject to modification pursuant to the terms of a memorandum of understanding or agreement, or upon expiration of an existing memorandum of understanding or agreement, or upon revision to personnel, policies, procedures and plans, subject to meet and confer in good faith. For employees who are not represented by a recognized employee organization, the type and accrual rate of, and policies relating to, accrued leave benefits may be revised by the trial court. However, as provided in Section 71612, the implementation of this chapter shall not be a cause for the modification of the type and accrual rate of, and policies relating to, accrued leave benefits.

71626. Notwithstanding any other provision of law, with respect to benefits which those persons who are trial court employees on and after the implementation date of this chapter would receive upon retirement, the following provisions shall apply:

(a) As provided in Section 71612, the implementation of this chapter shall not be a cause for the modification of the level of retiree group insurance benefits accruing to a trial court employee or provided to a retired trial court employee. The level of retiree group insurance benefits accruing to a trial court employee or provided to a retired trial court employee as of the implementation date of this chapter shall remain in effect unless modified pursuant to subdivision (b) or (c). If the same retiree group insurance benefits are not otherwise permitted by law or the vendor, the same level of retiree group insurance benefits shall be provided subject to subdivision (b).

(b) (1) For employees who are represented by a recognized employee organization, (A) the level of retiree group insurance benefits accruing to a trial court employee or provided to a retired trial court employee pursuant to the terms of a memorandum of understanding or agreement is subject to modification only pursuant

to the terms of that memorandum of understanding or agreement, and upon expiration of that memorandum of understanding or agreement, those retiree group insurance benefits may not be modified except pursuant to a subsequent memorandum of understanding or agreement; and (B) the level of retiree group insurance benefits accruing to a trial court employee or provided to a retired trial court employee pursuant only to personnel, policies, procedures, and plans, may be modified by the trial court, subject to meet and confer in good faith.

(2) For employees who are not represented by a recognized employee organization, the level of retiree group insurance benefits may be revised by the trial court.

(c) A county shall have the authority to provide retiree group insurance benefits to retired trial court employees. If the county administers retiree group insurance benefits to trial court employees or retired trial court employees, or if the trial court contracts with the county to administer retiree group insurance benefits to trial court employees or retired trial court employees, a trial court employee or retired trial court employee shall be eligible to participate in county retiree group insurance benefits and plans subject to county retiree group insurance benefit regulations, policies, terms and conditions, and subject to both of the following:

(1) A trial court employee or retired trial court employee shall have the right to accrual of retiree group insurance benefits, or to receive the same level of retiree group insurance benefits as county employees in similar classifications as designated by the trial court subject to meet and confer in good faith, without the opportunity to meet and confer with the county as to those benefits.

(2) The level of retiree group insurance benefits accruing to a trial court employee or provided to a retired trial court employee is subject to modification by the county, if the county changes the level of retiree group insurance benefits of county employees in classifications that have been designated as similar classifications pursuant to paragraph (1).

(d) For purposes of this section:

(1) “Retiree group insurance benefits” means group insurance benefits which trial court employees would receive upon retirement.

(2) “County,” means the board of supervisors of the county where the trial court is located, or the applicable governing body for the retirement system of such county.

(e) The trial court shall reimburse the county for the cost of coverage of retired trial court employees in county retiree group insurance benefit plans. The county may charge the trial court for retiree group insurance benefits only the amount that the county is required to pay in excess of the retirement system funding or prefunding of the retiree group insurance benefits. The county and

the trial court may agree to an alternative arrangement to fund retiree group insurance benefits.

71626.5. (a) As of the implementation date of this chapter:

(1) If a trial court employee receives county retiree group insurance benefits pursuant to Section 71625 and that county funds retiree group insurance benefits from excess funds in the county's retirement system, or prefunds retiree group insurance benefits, the county or county retirement board shall administer retiree group insurance benefits to trial court employees who retire from the county retirement system. However, the county and the trial court may agree to an alternative arrangement to administer retiree group insurance benefits.

(2) In all other counties in which the trial court exercises its authority to provide retiree group insurance benefits to its employees, (A) if the trial court administers retiree group insurance benefits to trial court employees separately from the county, the trial court shall continue to administer these benefits as provided under existing personnel policies, procedures, plans, or trial court employee memoranda of understanding or agreement; and (B) if the county administers retiree group insurance benefits to trial court employees or if the trial court contracts with the county to administer retiree group insurance benefits to trial court employees, the county may continue to administer retiree group insurance benefits to trial court employees pursuant to subdivision (c) of Section 71626 or the trial court may administer retiree group insurance benefits to trial court employees pursuant to the following transition process:

(i) While an existing memoranda of understanding or agreement remains in effect or for a transition period of up to 24 months, whichever is longer, the county shall administer retiree group insurance benefits for represented trial court employees who retire during that period, as provided in the applicable memoranda of understanding or agreement, unless the county is notified by the trial court pursuant to subparagraph (iv) that the trial court no longer needs the county to administer specified benefits, or the trial court and the county mutually agree that the county will no longer administer specified benefits.

(ii) For a transition period of up to 24 months after the implementation date of this chapter, the county shall administer retiree group insurance benefits for unrepresented trial court employees who retire during that period, unless notified by the trial court pursuant to subparagraph (iv) that the trial court no longer needs the county to administer specified benefits, or the trial court and the county mutually agree that the county will no longer administer specified benefits. During the 24-month transition period, if the county decides to change how it administers unrepresented trial court employees' retiree group insurance benefits, the county shall provide the trial court with at least 60 days' notice, or a mutually

agreed to amount of notice, before any change in the administration of the benefits is implemented so the trial court can decide whether to accept the county's change or consider alternatives and arrange to administer or provide benefits on its own.

(iii) If, during the 24-month transition period, the trial court decides to offer particular retiree group insurance benefits different from what the county is administering, the trial court shall be responsible for administering those particular retiree group insurance benefits.

(iv) If the trial court intends to give notice to the county that it no longer needs the county to administer specified retiree group insurance benefits to trial court employees, the trial court shall provide the county with at least 60 days' notice, or a mutually agreed to amount of notice.

(b) A county's agreement to administer retiree group insurance benefits shall not be construed to create a meet and confer obligation between the county and any recognized employee organization.

(c) Nothing in this section precludes a trial court from offering a different retiree group insurance benefits plans for trial court employees that is separate from the county retiree group insurance benefits plans, subject to the terms of a memorandum of understanding or agreement for represented employees, or the terms of trial court policies, procedures, or plans, for unrepresented employees.

71627. Notwithstanding any other provision of law:

(a) As provided in Section 71612, the implementation of this chapter shall be a cause for the modification of the level of federally regulated benefits provided to a trial court employee. The level of federally regulated benefits provided to a trial court employee as of the implementation date of this chapter shall remain in effect unless modified pursuant to subdivision (b). If the same federally regulated benefits are not permitted by law or by the vendor, the same level of federally regulated benefits shall be provided by the trial court subject to the provisions of subdivision (b).

(b) (1) For employees who are represented by a recognized employee organization, (A) the level of federally regulated benefits accruing to a trial court employee pursuant to the terms of a memorandum of understanding or agreement is subject to modification only pursuant to the terms of that memorandum of understanding or agreement, and upon expiration of that memorandum of understanding or agreement, those federally regulated benefits may not be modified except pursuant to a subsequent memorandum of understanding or agreement; and (B) the level of federally regulated benefits accruing to a trial court employee pursuant only to personnel, policies, procedures, and plans may be modified by the trial court, subject to meet and confer in good faith.



(2) For employees who are not represented by a recognized employee organization, the level of federally regulated benefits may be revised by the trial court.

(c) If the county administers federally regulated benefits to trial court employees, or if the trial court contracts with the county to administer federally regulated benefits to trial court employees, a trial court employee shall be eligible to participate in federally regulated benefits subject to federally regulated benefit regulations, policies, terms, and conditions, and subject to both of the following requirements:

(1) A trial court employee shall have the right to receive the same level of federally regulated benefits as county employees in similar classifications, as designated by the trial court subject to meet and confer in good faith with the trial court, without the opportunity to meet and confer with the county as to those benefits.

(2) The level of federally regulated benefits accruing to a trial court is subject to modification by the county if the county changes the level of federally regulated benefits of county employees in classifications that have been designated as similar classification pursuant to paragraph (1).

(d) For purposes of this section, “federally regulated benefits” means benefits that provide tax-favored treatment for employees pursuant to federal laws or regulations, including, but not limited to, cafeteria plans under Section 125 of the Internal Revenue Code, educational assistance benefits under Section 127 of the Internal Revenue Code, and fringe benefits under Section 132 of the Internal Revenue Code, but not including federally-regulated deferred compensation plan benefits provided to trial court employees pursuant to Section 71628.

(e) As of the implementation date of this chapter:

(1) If the trial court administers federally regulated benefits for trial court employees separately from the county, the trial court shall administer these benefits as provided under existing personnel policies, procedures, plans, or memoranda of understanding or agreement applicable to trial court employees.

(2) If the county administers federally regulated benefits for trial court employees, or if the trial court contracts with the county to administer federally regulated benefits, the following provisions govern the transition of responsibility for administering these benefits to the trial court:

(A) Until the effective date of the transition of responsibility, the county shall continue to administer represented trial court employees’ federally regulated benefits as provided in the memorandum of understanding or agreement and unrepresented trial court employees’ federally regulated benefits as provided in personnel policies, procedures, and plans.

(B) During the period of time between the implementation date of this chapter and the effective date of the transition of responsibility, both the trial court and the county shall cosponsor the federally regulated benefit plan. Cosponsorship shall continue as long as trial court employees are governed by a plan not offered by the trial court, but in no event longer than 18 months after the implementation date of this chapter, or the term of the memorandum of understanding or agreement applicable to trial court employees, whichever is longer, unless the trial court and the county agree to continued cosponsorship.

(C) If during the cosponsorship period the trial court decides to offer particular benefits that are different from what the county is administering, then the trial court shall be responsible for administering those particular benefits unless the trial court and county agree otherwise.

(D) The effective date of the transition of responsibility shall coincide with the first day of the applicable federally regulated benefits plan year to ensure that there is no financial impact on the employee or on either employer.

(f) To facilitate trial court employee participation in county federally regulated benefits plans, the trial court and county may mutually agree that the county will administer the payroll for trial court employees.

(g) The trial court shall reimburse the county for the cost of any coverage of trial court employees in county federally regulated benefit plans.

(h) A county shall have authority to cosponsor federally regulated benefits with a trial court to provide such benefits to trial court employees if such benefits are requested by the trial court subject to county agreement to cosponsor those benefits. A county's agreement to cosponsor those benefits shall not be construed as creating a meet and confer obligation between the county and any recognized trial court employee organization.

(i) Nothing in this section shall prevent a trial court from offering to trial court employees a future option of participating in other federally regulated benefit plans that may be developed subject to the obligation to meet and confer in good faith.

71628. Notwithstanding any other provision of law:

(a) As provided in Section 71612, the implementation of this chapter shall not be a cause for the modification of the level of deferred compensation plan benefits provided to a trial court.

If the same deferred compensation plan benefits are not permitted by law or the plan vendor, the trial court shall provide other defined compensation plan benefits at the same level, subject to the provisions of subdivision (b). The level of deferred compensation plan benefits provided to a trial court employee as of the

implementation date of this chapter shall remain in effect unless modified pursuant to subdivision (b).

(b) (1) For employees who are represented by a recognized employee organization, (A) the level of deferred compensation plan benefits accruing to a trial court employee pursuant to the terms of a memorandum of understanding or agreement is subject to modification only pursuant to the terms of that memorandum of understanding or agreement, and upon expiration of that memorandum of understanding or agreement, those deferred compensation plan benefits may not be modified except pursuant to a subsequent memorandum of understanding or agreement; and (B) the level of deferred compensation plan benefits accruing to a trial court employee pursuant only to personnel, policies, procedures, and plans may be modified by the trial court, subject to meet and confer in good faith.

(2) For employees who are not represented by a recognized employee organization, the level of deferred compensation plan benefits may be modified by the trial court.

(c) If the county administers deferred compensation plan benefits to trial court employees, or if the trial court contracts with the county to administer deferred compensation plan benefits to trial court employees, a trial court employee shall be eligible to participate in deferred compensation plan benefits subject to deferred compensation plan benefit regulations, policies, terms and conditions, and subject to both of the following:

(1) A trial court employee shall have the right to receive the same level of deferred compensation plan benefits as county employees in similar classifications, as designated by the trial court subject to meet and confer in good faith with the trial court, without the opportunity to meet and confer with the county as to those benefits.

(2) The level of deferred compensation plan benefits accruing to a trial court employee is subject to modification by the county if the county changes the level of deferred compensation plan benefits of county employees in classifications that have been designated as similar classification pursuant to paragraph (1).

(d) If the implementation of this chapter causes a change in deferred compensation plans and requires the transfer of trial court employees' plan balance to the trial court's deferred compensation plans, trial court employees shall not suffer a financial loss due to transfer-related penalties, such as deferred sales charges, and any financial loss due to transfer-related penalties shall be borne by the trial court.

(e) Trial court employees shall continue to be eligible to receive deferred compensation plan benefits from the county or the trial court. For purposes of federal 401(k) or 457 deferred compensation plans, one of the following shall apply:

(1) If permitted by federal law and deferred compensation plan vendors, trial court employees shall continue to receive federal 401(k) or 457 deferred compensation plan benefits through county plans unless the trial court modifies its plan benefits pursuant to personnel rules, subject to meet and confer in good faith.

(2) If not permitted by federal law or deferred compensation plan vendors, the trial court shall provide deferred compensation plan benefits at the same level subject to meet and confer in good faith, in which case upon transition to the new deferred compensation plan, (A) to provide the trial court time to investigate plan options, negotiate plan contracts, and establish plans, there shall be a transition period of at least six months, during which trial court employees shall continue to receive deferred compensation plan benefits from the county; and (B) a county may require that trial court employees leave their plan balances in the county's deferred compensation plan or may transfer trial court employees' plan balances to the trial court's deferred compensation plan.

(f) To facilitate trial court employee participation in county deferred compensation plans, the trial court and county may mutually agree that the county shall administer the payroll for trial court employees.

(g) The trial court shall reimburse the county for the cost of any coverage of trial court employees in county deferred compensation plans.

(h) A county is authorized to amend federal 401(k) and 457 deferred compensation plan documents as necessary to achieve the objectives of this section.

(i) Nothing in this section precludes the possibility that a trial court employee may have a future option of participating in other deferred compensation plans that may be developed subject to the obligation to meet and confer in good faith.

71629. Except as provided in Sections 71624, 71625, 71626, 71626.5, 71627, and 71628, and notwithstanding any other provision of law:

(a) As provided in Section 71612, the implementation of this chapter shall not be a cause for the modification of the level of trial court employment benefits. If the same trial court employment benefits are not permitted by law or the plan vendor, the trial court shall provide other trial court employment benefits at the same level subject to the provisions of subdivision (b). The level of trial court employment benefits provided to a trial court employee as of the implementation date of this chapter shall remain in effect unless modified pursuant to subdivision (b).

(b) For employees who are represented by a recognized employee organization, the level of trial court employment benefits provided to a trial court employee may not be modified until after the expiration of an existing memorandum of understanding or agreement or a period of 24 months, whichever is longer, unless the

trial court and recognized employee organization mutually agree to a modification. For employees who are not represented by a recognized employee organization, the level of trial court employment benefits may be revised by the trial court.

(c) The trial court shall reimburse the county for the cost of coverage of trial court employees in trial court employment benefit plans.

(d) As of the implementation date of this chapter:

(1) If the trial court administers trial court employment benefits to trial court employees separately from the county, the trial court shall continue to administer these benefits as provided under existing personnel policies, procedures, plans, or trial court employee memoranda of understanding or agreements.

(2) If the county administers trial court employment benefits to trial court employees or if the trial court contracts with the county to administer trial court employment benefits to trial court employees, the county may continue to administer trial court employment benefits to trial court employees pursuant to subdivision (e) or the trial court may administer trial court employment benefits to trial court employees pursuant to the following transition process:

(A) While an existing memorandum of understanding or agreement remains in effect or for a transition period of 24 months, whichever is longer, the county shall administer trial court employment benefits for represented trial court employees as provided in the applicable memorandum of understanding or agreement, unless the county is notified by the trial court pursuant to subparagraph (D) that the trial court no longer needs the county to administer specified benefits, or the trial court and the county mutually agree that the county will no longer administer specified benefits.

(B) For a transition period of up to 24 months after the implementation date of this chapter, the county shall administer trial court employment benefits for unrepresented trial court employees, unless notified by the trial court pursuant to subparagraph (D) that the trial court no longer needs the county to administer specified benefits, or the trial court and the county mutually agree that the county will no longer administer specified benefits. During the transition period, if the county intends to change unrepresented trial court employees' trial court employment benefits, the county shall provide the trial court with at least 60 days' notice, or a mutually agreed to amount of notice, before any change in benefits is implemented so the trial court can decide whether to accept the county's change or consider alternatives and arrange to provide benefits on its own.

(C) If, during the transition period, the trial court decides to offer particular trial court employment benefits that are different from



what the county is administering, the trial court shall be responsible for administering those particular benefits.

(D) If the trial court decides that it no longer needs the county to administer specified trial court employment benefits to trial court employees, the trial court shall provide the county with at least 60 days' notice, or a mutually agreed to amount of notice.

(e) To facilitate trial court employee participation in county trial court employment benefit plans, the trial court and county may mutually agree that the county shall administer the payroll for trial court employees.

(f) A county shall have authority to provide trial court employment benefits to trial court employees if those benefits are requested by the trial court and subject to county concurrence to providing those benefits. A county's agreement to provide those benefits shall not be construed to create a meet and confer obligation between the county and any recognized employee organization.

(g) Nothing in this section shall prevent the trial court from arranging for trial court employees other trial court employment benefits plans subject to the obligation to meet and confer in good faith.

Article 3. Labor Relations

71630. It is the purpose of this article to promote full communication between trial courts and their employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between trial courts and recognized employee organizations. It is also the purpose of this article to promote the improvement of personnel management and employer-employee relations within the trial courts in the State of California by providing a uniform basis for recognizing the right of trial court employees to join organizations of their own choice and be represented by those organizations in their employment relations with trial courts. It is also the purpose of this article to extend to trial court employees the right, and to require trial courts, to meet and confer in good faith over matters within the scope of representation, consistent with the procedures set forth in this article. This article is not intended to require changes in existing representation units, memoranda of agreement or understanding, or court rules, except as provided in this article.

71631. Except as otherwise provided by the Legislature, trial court employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Trial court employees also shall have the right to refuse to join or participate in the activities of employee organizations and



shall have the right to represent themselves individually in their employment relations with the trial court.

71632. (a) Notwithstanding any other provision of law, rule, or regulation, an agency shop agreement may be negotiated between a trial court and a recognized employee organization which has been recognized as the exclusive or majority bargaining agent pursuant to reasonable rules and regulations, and enactments, in accordance with this article. As used in this article, “agency shop” means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of that organization for the duration of the agreement or a period of three years from the effective date of the agreement, whichever comes first. However, any employee who is a member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting recognized employee organizations shall not be required to join or financially support any recognized employee organization as a condition of employment. Such an employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees to pay sums equal to those dues, initiation fees, or agency shop fees to a nonreligious, nonlabor charitable organization fund exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code, chosen by the employee from a list of at least three such funds designated in a memorandum of understanding or agreement between the trial court and the recognized employee organization, or if the memorandum of understanding or agreement fails to designate such funds, then to any such fund chosen by the employee. Proof of those payments shall be made on a monthly basis to the trial court as a condition of continued exemption from the requirement of financial support to the recognized employee organization.

(b) An agency shop provision in a memorandum of understanding or agreement which is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding or agreement, provided that: (1) a request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; and (3) the vote may be taken at anytime during the term of such memorandum of understanding or agreement, but in no event shall there be more than one vote taken during that term. However, the trial court and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on any agency shop agreement.

(c) An agency shop agreement shall not apply to management, confidential, or supervisory employees.

(d) Every recognized employee organization which has agreed to an agency shop provision shall keep an adequate itemized record of its financial transactions and shall make available annually, to the trial court with which the agency shop provision was negotiated, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the federal Labor-Management Disclosure Act of 1959 covering employees governed by this chapter or required to file financial reports under Section 3546.5, may satisfy the financial reporting requirement of this section by providing the trial court with a copy of those financial reports.

(e) If the trial court is party to any memorandum of understanding or agreement with any bargaining unit that includes court employees that provides for an agency shop provision as of the implementation date of this chapter, the trial court and employee organization representing the trial court employees shall be obligated to honor the terms of the agency shop provision, including indemnification provisions, if any, for the duration of the memorandum of understanding or agreement. A new agency shop election shall not be caused upon implementation of this chapter.

(f) This section shall remain in effect until such time as Section 3502.5 is amended to provide that a 30-percent or greater showing of interest by means of a petition requires an election regarding an agency shop, and a vote at that election of 50 percent plus one of those voting secures an agency shop arrangement, and as of that date this section is repealed.

71632.5. (a) Notwithstanding any other provision of law, rule, or regulation, an agency shop agreement may be negotiated between a trial court and a recognized employee organization which has been recognized as the exclusive or majority bargaining agent pursuant to reasonable rules and regulations, and enactments, in accordance with this article. As used in this article, “agency shop” means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of that organization for the duration of the agreement or a period of three years from the effective date of the agreement, whichever comes first. However, any employee who is a member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting recognized employee organizations shall not be required to join or financially support any recognized employee organization as a condition of employment.

Such an employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees to pay sums equal to those dues, initiation fees, or agency shop fees to a nonreligious, nonlabor charitable organization fund exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code, chosen by the employee from a list of at least three such funds, designated in a memorandum of understanding or agreement between the trial court and the recognized employee organization, or if the memorandum of understanding or agreement fails to designate such funds, then to any such fund chosen by the employee. Proof of those payments shall be made on a monthly basis to the trial court as a condition of continued exemption from the requirement of financial support to the recognized employee organization.

(b) An agency shop provision in a memorandum of understanding or agreement which is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding or agreement, provided that (1) a request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; and (3) the vote may be taken at anytime during the term of such memorandum of understanding or agreement, but in no event shall there be more than one vote taken during that term.

(c) In addition to the procedure prescribed in subdivision (a), an agency shop arrangement between the trial court and a recognized employee organization or recognized employee organizations shall be placed in effect upon (1) a signed petition of at least 30 percent of the employees in the applicable bargaining unit requesting an agency shop agreement and an election to implement an agency fee arrangement, and (2) the approval of a majority of employees who cast ballots and vote in favor of the agency shop agreement. This subdivision shall only be applicable in the event the court and representatives of the recognized employee organizations, through the meet and confer process, establish a provision in a negotiated memorandum of understanding or agreement that the employee organization shall hold harmless the court and defend and indemnify the court regarding the application of any agency shop requirements or provisions, including, but not limited to, improper deduction of fees, maintenance of records, and improper reporting. This subdivision shall be applicable only on the latest of the following and thereafter:

(1) The operative date of this section.

(2) The effective date of provisions described in subdivision (g).

(3) In the event that a memorandum of understanding or agreement between the court and a recognized employee organization is in effect on the later of either of the dates referenced in paragraph (1) or (2), as to the employees covered by the memorandum of understanding or agreement, the implementation

date shall be either the date a successor memorandum of understanding or agreement is effective or, if no agreement for a successor memorandum of understanding or agreement is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding or agreement. The court and representatives of recognized employee organizations may mutually agree to a different date on which this subdivision is applicable.

(d) Notwithstanding subdivisions (a), (b), and (c), the trial court and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on any agency shop agreement.

(e) An agency shop agreement shall not apply to management, confidential, or supervisory employees.

(f) Every recognized employee organization which has agreed to an agency shop provision, or is a party to an agency shop arrangement, shall keep an adequate itemized record of its financial transactions and shall make available annually, to the trial court with which the agency shop provision was negotiated, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the federal Labor-Management Disclosure Act of 1959 covering employees governed by this chapter or required to file financial reports under Section 3546.5, may satisfy the financial reporting requirement of this section by providing the trial court with a copy of those financial reports.

(g) This section shall only become operative only if Section 3502.5 is amended to provide that a 30-percent or greater showing of interest by means of a petition requires an election regarding an agency shop, and a vote at that election of 50 percent plus one of those voting secures an agency shop arrangement.

71632.6. If the trial court is party to any memorandum of understanding or agreement with any bargaining unit that includes court employees that provides for an agency shop provision as of the implementation date of this chapter, the trial court and employee organization representing the trial court employees shall be obligated to honor the terms of the agency shop provision, including indemnification provisions, if any, for the duration of the memorandum of understanding or agreement. The implementation of this chapter shall not be a cause for a new agency shop election.

71633. Recognized employee organizations shall have the right to represent their members in their employment relations with trial courts as to matters covered by this article. Employee organizations may establish reasonable restrictions regarding who may join and

may make reasonable provisions for the dismissal of individuals from membership. Nothing in this article shall prohibit any employee from appearing on his or her own behalf regarding employment relations with the trial court.

71634. (a) The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment. However, the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

(b) In view of the unique and special responsibilities of the trial courts in the administration of justice, decisions regarding the following matters shall not be included within the scope of representation:

- (1) The merits and administration of the trial court system.
- (2) Coordination, consolidation, and merger of trial courts and support staff.
- (3) Automation, including, but not limited to, fax filing, electronic recording, and implementation of information systems.
- (4) Design, construction, and location of court facilities.
- (5) Delivery of court services.
- (6) Hours of operation of the trial courts and trial court system.

(c) The impact from matters in subdivision (b) shall be included within the scope of representation as those matters affect wages, hours, and terms and conditions of employment of trial court employees. The court shall be required to meet and confer in good faith with respect to that impact.

(d) The trial court shall continue to have the right to determine assignments and transfers of trial court employees; provided that the process, procedures, and criteria for assignments and transfers shall be included within the scope of representation.

71634.1. (a) Except in cases of emergency as provided in this section, the trial court shall give reasonable written notice to each recognized employee organization affected by any rule, practice, or policy directly relating to matters within the scope of representation proposed to be adopted by the trial court and shall give each such recognized employee organization the opportunity to meet with the trial court.

(b) In cases of emergency when the trial court determines that any rule, policy, or procedure must be adopted immediately without prior notice or meeting with a recognized employee organization, the trial court shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of the rule, policy, or procedure.

71634.2. (a) The trial court, or those representatives as it may designate, shall meet and confer in good faith regarding wages, hours,



and other terms and conditions of employment within the scope of representation, as defined in Section 71634, with representatives of the recognized employee organizations, as defined in Section 71611, and shall consider fully the presentations as are made by the recognized employee organization on behalf of its members prior to arriving at a determination of policy or course of action.

(b) In fulfilling the requirements of subdivision (a), the court and the county may consult with each other, may negotiate jointly, and each may designate the other in writing as its agent on any matters within the scope of representation.

71634.3. If agreement is reached by the representatives of the trial court and a recognized employee organization or organizations, they shall jointly prepare a written memorandum of the agreement or understanding, which shall not be binding, and present it to the trial court or its designee for determination.

71634.4. If after a reasonable period of time, representatives of the trial court and the recognized employee organization fail to reach agreement, the trial court and the recognized employee organization or recognized employee organizations together may agree upon the appointment of a mediator mutually agreeable to the parties. Costs of mediation, if any, shall be divided one-half to the trial court and one-half to the recognized employee organization or recognized employee organizations.

71635. The trial court shall allow a reasonable number of trial court employee representatives of recognized employee organizations reasonable time off, without loss of compensation or other benefits, when formally meeting and conferring with representatives of the trial court on matters within the scope of representation.

71635.1. Trial courts and employee organizations shall not interfere with, intimidate, restrain, coerce, or discriminate against court employees because of their exercise of their rights under Section 71631.

71636. (a) A trial court may adopt reasonable rules and regulations, after consultation in good faith with representatives of an employee organization or organizations, for the administration of employer-employee relations under this article. These rules and regulations may include provisions for:

(1) Verifying that an organization does in fact represent employees of the trial court.

(2) Verifying the official status of employee organization officers and representatives.

(3) Recognition of employee organizations.

(4) Exclusive recognition of employee organizations formally recognized pursuant to a vote of the employees of the trial court or an appropriate unit thereof, subject to the right of an employee to represent himself or herself as provided in Section 71631.



(5) Additional procedures for the resolution of disputes involving wages, hours, and other terms and conditions of employment.

(6) Access of employee organization officers and representatives to work locations.

(7) Use of official bulletin boards and other means of communication by employee organizations.

(8) Furnishing nonconfidential information pertaining to employment relations to employee organizations.

(9) Such other matters as are necessary to carry out the purposes of this article.

(b) Exclusive recognition of employee organizations formally recognized as majority representatives pursuant to a vote of the employees may be revoked by a majority vote of the employees only after a period of not less than 12 months following the date of recognition.

(c) No trial court shall unreasonably withhold recognition of employee organizations.

(d) Pursuant to the obligation to meet and confer in good faith, the trial court shall establish procedures to determine the appropriateness of any bargaining unit of court employees.

71636.1. In the absence of local procedures for resolving disputes on the appropriateness of a unit of representation, upon the request of any of the parties, the dispute shall be submitted to the Division of Conciliation of the Department of Industrial Relations for the mediation or for recommendation for resolving the dispute.

71637. (a) For purposes of this article, professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization consisting of those professional employees. In the event of a dispute on the appropriateness of a unit of representation for professional employees, upon request of any of the parties, the dispute shall be submitted to the Division of Conciliation of the Department of Industrial Relations for mediation or for recommendation for resolving the dispute.

(b) For the purpose of this section, “professional employees” means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys.

71637.1. For purposes of this article, in addition to those rules and regulations that a trial court may adopt pursuant to, and in the same manner as set forth in, Section 71637, any trial court may adopt reasonable rules and regulations providing for designation of the management and confidential employees of the trial court and restricting those employees from representing any employee organization which represents other employees of the trial court, on matters within the scope of representation. Except as specifically provided otherwise in this article, this section does not otherwise

limit the right of employees to be members of, and to hold office in, an employee organization.

71638. A trial court employee shall have the right to authorize a dues deduction from his or her salary or wages in the same manner provided to public agency employees pursuant to Section 1157.1, 1157.2, 1157.3, 1157.4, 1157.5, or 1157.7.

71639. (a) As of the implementation date of this chapter, an employee organization that is recognized as a representative of a group of trial court employees or the exclusive representative of an established bargaining unit of trial court employees, either by the county or the trial court, shall continue to be recognized by the trial court as a representative or the exclusive representative of the same trial court employees. A trial court and recognized employee organization shall be bound by the terms of any memorandum of understanding or agreement covering trial court employees to which the trial court or the county is a party that is in effect on the implementation date of this chapter for the duration thereof, or until it expires and, consistent with law, is replaced by a successor memorandum of understanding or agreement, subject to the obligation to meet and confer in good faith. Upon expiration of a memorandum of understanding or agreement, the trial court shall meet and confer in good faith with recognized employee organizations.

(b) A trial court's local rules governing trial court employees and a trial court's personnel rules, policies, and practices, and any county rules in effect pursuant to Rule 2205 of the California Rules of Court as adopted on April 23, 1997, in effect at the time of the implementation date of this chapter, to the extent they are not contrary to or inconsistent with the obligations and duties provided for in this article, shall continue in effect until changed by the trial court. Prior to changing any rule, policy, or practice that affects any matter within the scope of representation as set forth in this article, the court shall meet and confer in good faith with the recognized employee organization as provided for in this chapter.

(c) Nothing contained in this article is intended to preclude trial court employees from continuing to be included in representation units which contain county employees.

71639.1. (a) Each trial court shall adopt a procedure to be used as a preliminary step before petitioning the superior court for relief pursuant to subdivision (c). The procedure may be mediation, arbitration, or a procedure before an administrative tribunal such as the procedure established pursuant to Sections 71653 and 71654 for review of the decision of the hearing officer in evidentiary due process hearings. The establishment of the procedure shall be subject to the obligation to meet and confer in good faith. However, nothing in this section shall prohibit a party from seeking provisional relief,

such as a stay, in any case in which such provisional relief would otherwise be appropriate.

(b) In a trial court with 10 or more judges, if the trial court and a recognized employee organization reach an impasse regarding development of a procedure required pursuant to subdivision (a), the trial court shall adopt either nonbinding arbitration or a proceeding before the administrative tribunal, such as the procedure established pursuant to Sections 71653 and 71654, for review of the decision of the hearing officer in evidentiary due process or hearings.

(c) Notwithstanding Sections 1085 and 1103 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, and except as required pursuant to Section 5 of Article VI of the California Constitution, any agreements reached pursuant to negotiations held pursuant to this article are binding on the parties and may be enforced by petitioning the superior court for relief pursuant to Section 1085 or 1103 of the Code of Civil Procedure.

(d) Notwithstanding Sections 1085 and 1103 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, in the event that a trial court, a trial court employee, or an employee organization believes there has been a violation of this article, that party may petition the superior court for relief.

(e) The Judicial Council shall adopt rules of court to implement this hearing and appeal process. The rules of court shall provide a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear such matters, as specified in the rules of court, from which a single justice shall be assigned to hear the matter in the superior court. The rules of court shall provide that such matters shall be heard in the superior court and the court of appeal on an expedited basis, and to the extent permitted by law or rule of court, shall provide that any justice assigned to hear the matter in the superior court shall not be from the court of appeal district in which the action is filed, and shall provide that appeals in these matters shall be heard in the court of appeal district where the matter was filed.

(f) A complete alternative to the procedure outlined in subdivisions (c) and (d) may be provided for by mutual agreement between a trial court and representatives of recognized employee organizations.

71639.2. The enactment of this article shall not be construed as making Section 923 of the Labor Code applicable to trial court employees.

71639.3. Trial courts and trial court employees are not covered by Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, or any subsequent changes to these sections except as provided in this article. However, where the language of this article is the same or substantially the same as that contained in Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, it shall be interpreted and

applied in accordance with the judicial interpretations of the same language.

Article 4. Employment Selection and Advancement

71640. (a) As of the implementation date of this chapter, each trial court shall establish a trial court employment selection and advancement system which shall become the minimum selection and advancement system for all trial court employees and shall become part of the sole trial court employee personnel system. The trial court employment selection and advancement system shall replace any county employment selection and advancement systems applying to trial court employees prior to the implementation date as provided in this article, except as otherwise specified in this article. This article establishes minimum standards, and each trial court employment selection and advancement system shall, at a minimum, conform to the requirements of this article.

(b) Until such time as a trial court establishes a trial court employment selection and advancement system as provided in this article, the minimum standards required pursuant to this article shall be the trial court employment selection and advancement system.

71641. Each trial court shall develop personnel rules regarding hiring, promotion, transfer, and classification. Trial courts shall meet and confer in good faith with representatives of the recognized employee organizations on those rules that cover matters within the scope of representation. However, nothing in this article is intended to expand the definition of matters within the scope of representation, as defined in Section 71634.

71642. Hiring and promotion within a trial court shall be done in a nondiscriminatory manner based on job-related factors. Trial court personnel rules shall meet the following minimum standards:

(a) Recruiting, selecting, transferring, and advancing employees shall be on the basis of their relative ability, knowledge, and skills. Initial appointment shall be through an open, competitive process. Preference shall be given to internal candidates.

(b) Formal job-related selection processes are required when filling positions.

(c) Each trial court shall have an equal employment opportunity policy applying to all applicants and employees in accordance with applicable state and federal law.

71643. (a) The following positions are excluded from the competitive selection and promotion processes required by Section 71642:

(1) Subordinate judicial officers.

(2) Managerial, confidential, temporary, and limited-term positions in accordance with a trial court's personnel policies, procedures, or plans, subject to meet and confer in good faith.



(b) If managerial, confidential, temporary, and limited-term positions are defined for the purposes of competitive selection and promotion processes within a trial court as of the implementation date of this chapter, then that definition shall be maintained for those purposes until changed subject to meet and confer in good faith. If managerial, confidential, temporary, and limited-term positions are not defined for the purposes of competitive selection and promotion processes within a trial court as of the implementation date of this chapter, then the adoption of any such definition by the trial court shall be subject to meet and confer in good faith.

(c) The exclusion of managerial, confidential, temporary, and limited term positions from required competitive selection and promotion processes shall not affect the employees' right to representation.

(d) Permanent or regular employees who assume limited term appointments or assignments to other positions or classes shall retain their permanent or regular status during and upon expiration of the limited term appointment or assignment.

71644. Disputes between a trial court and its employees regarding the alleged misapplication, misinterpretation, or violation of the trial court's rules enacted pursuant to Sections 71641 and 71642 governing hiring, promotion, transfer, and classification shall be resolved by binding arbitration.

71645. (a) On and after the implementation date of this chapter, this article shall become the employment, selection, and advancement system for all trial court employees within a trial court and shall become part of the sole trial court employee system, replacing any aspects of county employment, selection, and advancement systems applying to trial court employees prior to the implementation date of this chapter.

(b) Except as provided in subdivision (c), the implementation date of this chapter for each trial court shall be the effective date of this chapter.

(c) The representatives of the trial court and representatives of recognized employee organizations may mutually agree to a different implementation date.

If the provisions in this article are governed by an existing memorandum of understanding or agreement covering trial court employees, as to such provisions, the implementation date shall be either the date a successor memorandum of understanding or agreement is effective or, if no agreement for a successor memorandum of understanding or agreement is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding or agreement, unless representatives of the trial court and representatives of recognized employee organizations mutually agree otherwise.

Article 5. Employment Protection System

71650. (a) As of the implementation date of this article, as provided in Section 71658, each trial court shall establish a trial court employment protection system which shall become the minimum employment protection system for all trial court employees and shall become part of the sole trial court employee personnel system. The trial court employment protection system shall replace any county employment protection systems applying to trial court employees prior to the implementation date provided in Section 71658, except as otherwise specified in this article. This article establishes minimum standards, and each trial court employment protection system shall, at a minimum, conform to the requirements of this article.

(b) Nothing in this article shall preclude the establishment of enhanced employment protection systems pursuant to trial court personnel policies, procedures, or plans subject to meet and confer in good faith.

(c) Nothing in this article shall be construed to provide, either explicitly or implicitly, a civil cause of action for breach of contract either express or implied arising out of a termination of employment.

(d) Except as specified in subdivisions (a), (b), and (c), this article shall not apply to either of the following categories of trial court employees:

(1) Subordinate judicial officers.

(2) Managerial, confidential, temporary, limited term and probationary employees, unless included within the trial court employment protection system in accordance with trial court personnel policies, procedures or plans subject to meet and confer in good faith.

71651. (a) The trial court employment protection system in each trial court shall include progressive discipline, as defined by each trial court's personnel policies, procedures, or plans, subject to meet and confer in good faith. Except for layoffs for organizational necessity as provided for in Section 71652, discipline, up to and including termination of employment, shall be for cause.

(b) For purposes of this section, "for cause" means a fair and honest cause or reason, regulated by good faith on the part of the party exercising the power.

71652. (a) A trial court employee may be laid off based on the organizational necessity of the court. Each trial court shall develop, subject to meet and confer in good faith, personnel rules regarding procedures for layoffs for organizational necessity.

(b) For purposes of this section, a "layoff for organizational necessity" means a termination based on the needs or resources of the court, including, but not limited to, a reorganization or reduction in force or lack of funds.

71653. Subject to meet and confer in good faith, each trial court shall establish in its personnel rules a process for conducting an evidentiary due process hearing to review disciplinary decisions that by law require an evidentiary due process hearing, which shall include, at a minimum, all of the following elements:

(a) A procedure for appointment of an impartial hearing officer who shall not be a trial court employee or judge of the employing court.

(b) The hearing shall result in an appropriate record with a written report that has findings of fact and conclusions that reference the evidence.

(c) The employee and trial court shall have the right to call witnesses and present evidence. The trial court shall be required to release trial court employees to testify at the hearing.

(d) The hearing officer shall have the authority to issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, documents, and other evidence as provided in Section 1282.6 of the Code of Civil Procedure.

(e) The employee shall have the right to representation, including legal counsel, if provided by the employee.

(f) If the hearing officer disagrees with the trial court's disciplinary decision, the trial court shall furnish a certified copy of the record of proceedings before the hearing officer to the employee or, if the employee is represented by a recognized employee organization or counsel, to that representative, without cost.

71654. Subject to meet and confer in good faith, each trial court shall establish in its personnel rules a process for the trial court to review a hearing officer's report and recommendation made pursuant to Section 71653 that provides, at a minimum, that the decision of the hearing officer shall be subject to review, as follows:

(a) A trial court shall have 30 calendar days from receipt of the hearing officer's report or receipt of the record of the hearing, whichever is later, to issue a written decision accepting, rejecting or modifying the hearing officer's report or recommendation unless the trial court and employee mutually agree to a different timeframe.

(b) In making its decision under subdivision (a), the trial court shall be bound by the factual findings of the hearing officer, except factual findings that are not supported by substantial evidence, and the trial court shall give substantial deference to the recommended disposition of the hearing officer.

(c) If the trial court rejects or modifies the hearing officer's recommendation, the trial court shall specify the reason or reasons why the recommended disposition is rejected in a written statement which shall have direct reference to the facts found and shall specify whether the material factual findings are supported by substantial evidence. The trial court may reject or modify the recommendation of the hearing officer only if the material factual findings are not

supported by substantial evidence, or for any of the following reasons or reasons of substantially similar gravity or significance:

(1) The recommendation places an employee or the public at an unacceptable risk of physical harm from an objective point of view.

(2) The recommendation requires an act contrary to law.

(3) The recommendation obstructs the court from performing its constitutional or statutory function from an objective point of view.

(4) The recommendation disagrees with the trial court's penalty determination, but the hearing officer has not identified material, substantial evidence in the record that provides the basis for that disagreement.

(5) The recommendation is contrary to past practices in similar situations presented to the hearing officer that the hearing officer has failed to consider or distinguish.

(6) From an objective point of view, and applied by the trial court in a good faith manner, the recommendation exposes the trial court to present or future legal liability other than the financial liability of the actual remedy proposed by the hearing officer.

(d) If a trial court's review results in rejection or substantial modification of the hearing officer's recommendation, then the final review shall be conducted by an individual other than the disciplining officer. If the disciplining officer is a judge of the trial court, the review shall be made by another judge of the court, a judicial committee, an individual, or panel as specified in the trial court's personnel rules. However, in a trial court with two or fewer judges, if the trial court has no other judge than the disciplining judge or judges, the judge or judges may conduct the review; and, as a minimum requirement, in a trial court with 10 or more judges, the review shall be by a panel of three judges, whose decision shall be by a majority vote, which shall be selected as follows:

(1) One judge shall be selected by the presiding judge or his or her designee.

(2) One judge shall be selected by the employee or, if the employee is represented, by his or her bargaining representative.

(3) The two appointed judges shall select a third judge.

On panels in a trial court with 10 or more judges, no judge may be selected to serve without his or her consent; the term of office of the panel shall be defined by local personnel policies, procedures, or plans subject to the obligation to meet and confer in good faith; and no judge shall serve on the panel in a case in which he or she has imposed discipline.

71655. (a) An employee may challenge the decision of the disciplining trial court, made pursuant to Section 71654, rejecting or modifying the hearing officer's recommendation by filing a writ of mandamus pursuant to Section 1094.5 of the Code of Civil Procedure in the appropriate court, and such review by that court shall be based on the entire record. If required by the writ procedure and if not

previously provided to the disciplined employee, the disciplining court shall furnish a certified copy of the record of the proceeding before the hearing officer to the disciplined employee or, if the employee is represented, to the bargaining representative without charge. In reviewing the disciplining trial court's rejection or modification of the hearing officer's recommendation, the reviewing court shall be bound by the hearing officer's material factual findings that are supported by substantial evidence.

(b) The denial of due process or the imposition of a disciplinary decision that by law requires a due process hearing without holding the required hearing may be challenged by a petition for a writ of mandate.

71656. Notwithstanding any other provision of this article, in a county of the first class as defined in Section 28022 as of January 1, 2001:

(a) As of the implementation date provided in Section 71658, a trial court employee who was a member of a county civil service system shall remain in that system for the sole purposes of evidentiary due process hearings before the county civil service commission as an alternative to the due process hearings provided for in Sections 71653, 71654, and 71655, unless the employee elects, pursuant to subdivision (c), to be subject to the trial court employment protection system provided in this article.

(b) One year after the implementation date provided in Section 71658, a trial court employee who was a member of a county civil service system shall be deemed to have elected, pursuant to subdivision (c), to be subject to the trial court employment protection system provided in this article unless the employee has, during that year, submitted to the trial court a signed writing expressly electing the county civil service commission solely for the purposes of evidentiary due process hearings in lieu of the hearings provided for in Sections 71653, 71654, and 71656. However, no election may be made after receiving notice of intended discipline until after the disciplinary action has been finally resolved and the employee has exhausted all remedies related to that action. The one-year period in which to elect the county civil service commission shall be tolled during the period of time when a trial court employee is disabled from making an election because of pending disciplinary action or proceedings.

(c) A trial court employee who is subject to the county civil service system may elect at any time to be subject to the trial court employment protection system provided in this article, except that no election may be made after receiving notice of intended discipline until after the disciplinary action has been finally resolved and the employee has exhausted all remedies related to that action. An election to be subject to the trial court employment protection system may not be revoked.



(d) A trial court employee who elects to remain in the county civil service system and who later is promoted or transferred into a position that is comparable to a position that is classified as exempt from the county civil service system shall be subject to the trial court employment protection system for all purposes.

(e) Trial court employees in a county of the first class eligible for making an election pursuant to subdivisions (a) and (b) shall be deemed county employees for purposes of remaining eligible for evidentiary due process hearings before the county civil service commission.

(f) A trial court shall adopt procedures, subject to meet and confer in good faith, that establish a process for election pursuant to this section.

71657. (a) Disciplinary action served on an employee prior to the implementation date of this chapter shall remain in effect in accordance with the procedures established under the trial court's predecessor personnel system.

(b) Appeals of disciplinary action served on an employee prior to the implementation date of this chapter shall be made in accordance with the procedures established under the trial court's predecessor personnel system. Appeals of disciplinary action served on an employee after the implementation date of this chapter shall be made in accordance with the procedures established pursuant to this article. The consequences of past discipline under the trial court's new employment protection system pursuant to this article on past discipline shall be subject to meet and confer in good faith.

71658. (a) Except as provided in subdivision (b), the implementation date of this article is the effective date of this chapter.

(b) Representatives of a trial court and representatives of recognized employee organizations may mutually agree to an implementation date of this article different from that specified in subdivision (a). However, if any provisions of this chapter are governed by an existing memorandum of understanding or agreement covering trial court employees, as to those provisions, the implementation date shall be either the date a successor memorandum of understanding or agreement is effective or, if no agreement for a successor memorandum of understanding or agreement is reached, 90 days from the date of the expiration of the predecessor memorandum of understanding or agreement unless representatives of the trial court and representatives of recognized employee organizations mutually agree otherwise.

Article 6. Personnel Files

71660. Each trial court shall adopt personnel rules, subject to the obligation to meet and confer in good faith, to provide trial court



employees with access to their official personnel files. The rules shall provide, at a minimum, that all of the following applies:

(a) Each trial court shall, at reasonable times and intervals, permit an employee, upon that employee's request, to inspect his or her official personnel files that are used, or have been used, to determine that employee's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

(b) Each trial court shall keep a copy of each employee's official personnel files at the place where the employee reports to work, or shall make the official personnel files available where the employee reports to work within a reasonable period of time after a request for the official personnel files by the employee.

(c) Records of a trial court employee relating to the investigation of a possible criminal offense, letters of reference, and other matters protected by constitutional, statutory, or common law provisions, shall be excluded from the personnel files for purposes of this section.

Article 7. Relation to Other Trial Court Statutes

71670. Nothing in this chapter shall be construed to affect the provisions of the Brown-Presley Trial Court Funding Act (Chapter 13 (commencing with Section 77000) of Title 8) or to impose upon the Judicial Council or the state any obligation to make an allocation to a trial court to fund expenses or obligations incurred by the trial court pursuant to this chapter.

71671. Notwithstanding any other provision of law, each trial court employee shall have the protections provided for in Article 5 (commencing with Section 71650) of this chapter, except as otherwise provided by this chapter.

71672. Notwithstanding any other provision of law, each trial court employee shall be entitled to such benefits as are provided for in Article 2 (commencing with Section 71620) of this chapter.

71673. Notwithstanding any other provision of law, the trial court may exercise the authority and power granted to it pursuant to Article 2 (commencing with Section 71620) of this chapter, including, but not limited to, the authority and power to establish job classifications, to appoint such employees as are necessary, to establish salaries for trial court employees, and to arrange for the provision of benefits for trial court employees, without securing the approval or consent of the county or the board of supervisors, and without requiring any further legislative action, except as otherwise provided by this chapter.

71674. The California Law Revision Commission shall determine whether any provisions of law are obsolete as a result of the enactment of this chapter, the enactment of the Lockyer-Isenberg Trial Court Funding Act of 1997 (Chapter 850 of the Statutes of 1997), or the implementation of trial court unification, and shall

recommend to the Legislature any amendments to remove those obsolete provisions. The commission shall report its recommendations to the Legislature, including any proposed statutory changes, on or before January 1, 2002.

SEC. 15. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

